

## Minutes HEARING OFFICER AUGUST 21, 2007

Minutes of the regular public hearing of the Hearing Officer, of the City of Tempe, which was held at the Council Chambers, 31 East Fifth Street, Tempe, Arizona.

**Present:**

David Williams, Hearing Officer  
Steve Abrahamson, Planning and Zoning Coordinator  
Shawn Daffara, Planner II  
Jon Christopher, Planner II

**Number of Interested Citizens Present: 8**

Meeting convened at 1:30 PM and was called to order by Mr. Williams.

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1. Mr. Williams approved the Hearing Officer Minutes for August 7, 2007.
  2. Mr. Williams noted that the following case(s) had been continued:
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Hold a public hearing for a request by the **VULLO RESIDENCE (PL060722)** (Curt Wilt/Architect, applicant; Rick Vullo, property owner) located at 2034 South College Avenue in the R1-6, Single Family Residential District for:

**VAR07019** Variance to reduce the rear yard setback from the required fifteen (15) feet to two (2) feet.  
**CONTINUED TO THE SEPTEMBER 4, 2007 HEARING OFFICER**

Hold a public hearing for a request by the **TALEN RESIDENCE (PL070327)** (Emily Talen, applicant/property owner) located at 1204 South Maple Avenue in the R-2, Multi-Family Residential District for:

**ZUP07109** Use permit to allow required parking in the front yard setback.  
**CONTINUED TO THE SEPTEMBER 4, 2007 HEARING OFFICER**

Hold a public hearing for a request by **THE CEDARS (PL070330)** (Alan Turley/Turley Design Affiliates, applicant; AIMCO, property owner) located at 2003 North McAllister Drive in the R-3, Multi-Family Residential Limited District for:

**ZUP07107** Use permit standard to reduce the front (west) yard setback by twenty percent (20%) from twenty (20) feet to sixteen (16) feet.

**ZUP07108** Use permit to allow required parking in the front (west) yard setback.  
**CONTINUED TO THE SEPTEMBER 4, 2007 HEARING OFFICER**

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3. Hold a public hearing for a request by the **WEBB RESIDENCE (PL070303)** (Jim Harder/Building Dreams, applicant; Steve Webb, property owner) located at 2110 East Watson Drive in the R1-7, Single Family Residential District for:

**ZUP07095** Use permit standard to reduce the rear yard setback by twenty percent (20%) from fifteen feet (15') to twelve feet (12').

**ZUP07103** Use permit to allow an accessory building.

Mr. Mike Gove of Building Dreams Inc. was present to represent this case.

**DECISION:**

Mr. Williams approved PL070303/ZUP07095/ZUP07103 subject to the following conditions:

1. Obtain all necessary clearances from the Building Safety Division.
2. Detached structure to be compatible in design with main dwelling; colors to match existing dwelling.

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4. Hold a public hearing for a request by the **BENSON RESIDENCE (PL070332)** (James Benson, applicant/property owner) located at 2220 South Shannon Drive in the R1-6, Single Family Residential District for:

**ZUP07102** Use permit to allow an accessory building (2 car garage).

Mr. James Benson was present to represent this case.

**DECISION:**

Mr. Williams approved PL070332/ZUP07102 subject to the following conditions:

1. Obtain all necessary clearances from the Building Safety Division.
2. The accessory building shall match the existing residence in design, color and material.

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5. Hold a public hearing for a request by the **MILLER RESIDENCE (PL070333)** (Jason Miller, applicant/property owner) located at 1324 West 11<sup>th</sup> Street in the R1-6, Single Family Residential District for:

**ZUP07104** Use permit to allow the required parking in the front yard setback.

Mr. Jason Miller was present to represent this case.

Mr. Gregory Coughlin, the new owner of the home, was present also.

Setbacks and proposed conditions of approval were discussed.

**DECISION:**

Mr. Williams continued PL070333/ZUP07104 continued this case to the September 18, 2007 Hearing Officer hearing asking that the case be reposted at the property location as it was not in place when Mr. Williams did a site inspection this morning.

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6. Hold a public hearing for a request by **LIFESTYLES FITNESS (PL070334)** (Mark Hill, applicant; Zonline LLC property owner) located at 4435 South Rural Road, Suite Nos. 5 and 6 in the PCC-2, Planned Commercial Center General District for:

**ZUP07105** Use permit to allow a massage therapist.

Mr. Mark Hill was present to represent this case.

Hours of operation, in particular weekends, were discussed. The applicant noted that hours were by appointment only on any week day between the hours of 5 AM to 8 PM. Weekend appointments are available although it is not too busy during the summer months as most clients want weekend off. If there are any Saturday appointments they usually occur between 9 AM – 12 Noon.

**DECISION:**

Mr. Williams approved PL070334/ZUP07105 subject to the following conditions:

1. All permits and clearances required by the Building Safety Division shall be obtained prior to the use permit becoming effective.
2. The use permit is transferable. Should the business be sold, the new owners must reprocess for administrative review.
3. The use permit is valid for the plans and business operation as submitted to and approved by the Hearing Officer/Board of Adjustment.
4. Any expansion or intensification of use shall require a new use permit to be approved.
5. If there are any complaints arising from the use permit that are verified by a consensus of the complaining party and the City Attorney's office, the use permit will be reviewed by city staff to determine the need for a public hearing set to re-evaluate the appropriateness of the use permit.
6. All required State, County and Municipal permits shall be obtained or the use permit is void.
7. All required permits and clearances shall be obtained from the Audit and Licensing Division of the City of Tempe prior to the use permit becoming effective.
8. All business signs shall be Development Review approved and permits obtained.

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7. Hold a public hearing for a request by **BELL BUTTE – MOTOROLA (PL070335)** (Alan Wawrzyniak/Patriot Tower, applicant; City of Tempe, property owner) located at 1705 West Broadway Road in the AG, Agricultural District for:

**ZUP07110** Use permit to allow wireless antennas on top of Bell Butte.

**ZUP07111** Use permit to allow an accessory building (antenna equipment).

Mr. Dale Gray of Patriot Towers was present to represent this case.

Mr. Gray noted that the property owner is Maricopa County, not the City of Tempe.

Mr. Williams questioned the height of the antenna and of the water tank. Mr. Gray responded that the antenna height is fourteen (14) feet; the water tank is thirty-six (36) feet high.

**DECISION:**

Mr. Williams approved PL070335/ZUP07110/ZUP07111, noting that he was concerned with the proliferation of antennas on this visually prominent feature, subject to the following conditions:

1. Obtain all necessary clearances from the Building Safety Division of the Development Services Department.
2. Any intensification or expansion of use, including co-location of additional antennas, will require a new use permit.
3. The proposed antennas shall match the existing antennas atop Bell Butte.
4. The wireless device shall be removed within 30 days of discontinuance of use.
5. All comments from Site Plan Review (SPR07092) shall be resolved during Building Permit Plan Review.

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8. Hold a public hearing for a request by **PAPAGO BUTTE WATER TREATMENT – MOTOROLA (PL070336)** (Alan Wawrzyniak/Patriot Tower, applicant; City of Tempe, property owner) located at 255 East Marigold Lane in the AG, Agricultural District for:

**ZUP07112** Use permit to allow a wireless antenna tower not to exceed a height of one hundred twenty feet (120').

**ZUP07113** Use permit to allow an accessory building (antenna equipment).

Mr. Dale Gray of Patriot Towers was present to represent this case.

Shawn Daffara, staff planner, indicated that the North Tempe Neighborhood Association (NTNA) had indicated pending written confirmation of agreement on the design of this tower.

Mr. Gray accepted all conditions of approval as proposed.

Mr. Williams questioned whether a photosim/studies had been conducted for this site. Mr. Gray stated that they had not, and that no additional fill pad for the tower would be installed. He noted that there will be increased surveillance onsite and that the tower matched the existing verticality in the area.

Mr. Gray stated that the NTNA wanted the pole to be painted 'dull grey' to match the existing SRP lines.

Mr. Williams questioned the height of the existing SRP transmission line and the guide tower. Mr. Gray responded that the SRP guide tower is 267 feet and the transmission lines are 126 feet in height.

Mr. Williams stated that Condition of Approval No. 3, 'the proposed antennas shall match the natural surroundings' is vague, and that approval is difficult without written or 'in-audience' indication of agreement. He noted that photo simulation from different viewpoints such as downtown Tempe, Tempe Town Lake and Curry Road needs to be done.

**DECISION:**

Mr. Williams continued PL070336/ZUP07112/ZUP07113 to the September 4, 2007 Hearing Officer hearing and asked that the a photo simulation looking north as well as North Tempe Neighborhood Association confirmation of agreement be included in staff report documentation for that hearing.

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9. Hold a public hearing for a request by **TEMPE FIRE TRAINING CENTER – MOTOROLA (PL070337)** (Alan Wawrzyniak/Patriot Tower, applicant; City of Tempe, property owner) located at 1340 East University Drive in the GID, General Industrial District for:

**ZUP07114** Use permit to allow a wireless antenna tower not to exceed a height of one hundred fifty feet (150').

Mr. Dale Gray of Patriot Towers was present to represent this case.

Mr. Williams discussed the existing verticality with Mr. Gray.

**DECISION:**

Mr. Williams approved PL070337/ZUP07114 subject to the following conditions:

1. Obtain all necessary clearances from the Building Safety Division of the Development Services Department.
2. Any intensification or expansion of use, including co-location of additional antennas, will require a new use permit.
3. The proposed antennas shall match the existing antennas atop Bell Butte.
4. The wireless device shall be removed within 30 days of discontinuance of use.
5. All comments from Site Plan Review (SPR07090) shall be resolved during Building Permit Plan Review.

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10. Hold a public hearing for a request by **EXPRESS PERSONNEL (PL070343)** (Judy Taylor, applicant; Razz Inc., property owner) located at 8100 South Priest Drive in the GID, General Industrial District for:

**ZUP07106** Use permit to allow an employment agency.

Ms. Judy Taylor was present to represent this case. She noted that this was a professional staffing agency that operated primarily by appointment, not day labor.

Mr. Williams questioned the number of employees? Hours of operation? And whether the employees visited the office on pay day?

Ms. Taylor responded that there were five (5) employees, hours were from 7:30 AM to 5:30 PM, and that there was little extra traffic on pay days (maybe 3 to 4) as most employees have direct deposit.

**DECISION:**

Mr. Williams approved PL070343/ZUP07106 subject to the following conditions:

1. All permits and clearances required by the Building Safety Division shall be obtained prior to the use permit becoming effective.
2. The use permit is transferable. Should the business be sold, the new owners must reprocess for administrative review.
3. The use permit is valid for the plans and business operation as submitted to and approved by the Hearing Officer/Board of Adjustment. Any expansion or intensification of the use will require review of the use permit.
4. If there are any complaints arising from the use permit that are verified by a consensus of the complaining party and the City Attorney's office, the use permit will be reviewed by city staff to determine the need for a public hearing to re-evaluate the appropriateness of the use permit.

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11. Hold a public hearing for a request by the City of Tempe – Neighborhood Enhancement Department to abate public nuisance items in violation of the Tempe City Code for the **LANGEVIN RESIDENCE (PL070329/ABT07022)** (Richard Langevin, property owner) Complaint No. CE070465 located at 1009 West 16<sup>th</sup> Street, in the R1-6, Single Family Residential District.

Julie Scofield, of the City of Tempe – Neighborhood Enhancement Department, has withdrawn this case as the property has been brought into compliance.

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The next Hearing Officer public hearing will be held on **Tuesday, September 4, 2007.**

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There being no further business the public hearing adjourned at 2:23 PM.

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Prepared by: Diane McGuire, Administrative Assistant II  
Reviewed by:



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Steve Abrahamson, Planning & Zoning Coordinator  
for David Williams, Hearing Officer

SA:dm